

TSUNEO TANIGAWA, ALSO KNOWN AS DAVID LAWRENCE
ROGERS

JULY 1, 1952.—Committed to the Committee of the Whole House and ordered
to be printed.

Mr. WALTER, from the Committee on the Judiciary, submitted the
following

R E P O R T

[To accompany S. 1840]

The Committee on the Judiciary, to whom was referred the bill (S. 1840) for the relief of Tsuneo Tanigawa, also known as David Lawrence Rogers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant a waiver of the racial barrier to admission into the United States in behalf of a minor Japanese child of Sgt. and Mrs. Ernest P. Rogers. The child would be considered to be a nonquota immigrant which is the status normally enjoyed by the alien minor children of citizens of the United States.

GENERAL INFORMATION

The beneficiary of the bill was born on January 15, 1951, in Tokyo, Japan, of unknown parents and is presently residing with Sgt. and Mrs. Ernest P. Rogers who are United States citizens.

A letter dated January 5, 1952, to the chairman of the Senate Committee on the Judiciary from the Deputy Attorney General with reference to the case reads as follows:

JANUARY 5, 1952.

HON. PAT MCCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 1840) for the relief of Tsuneo Tanigawa also known as David Lawrence Rogers, an alien.

The bill would provide that, solely for the purposes of sections 4 (a) and 9 of the Immigration Act of 1924, and notwithstanding any provisions excluding from

admission to the United States persons of races ineligible to citizenship, Tsuneo Tanigawa, also known as David Lawrence Rogers, a minor Japanese child, shall be considered the alien natural-born child of Sgt. Ernest P. Rogers and his wife, Annie L. Rogers, citizens of the United States.

The files of the Immigration and Naturalization Service of this Department disclose that the alien, presumably of the Japanese race, was born on or about January 15, 1951, in Tokyo, Japan, of unknown parents. Sergeant Rogers stated that he was born on September 13, 1918, at Newton, N. H., and that his wife, who is presently residing with him in Japan, was born in Louisville, Miss., on April 30, 1923. Sergeant Rogers has served with the United States Army since 1941.

The files further reveal that Sergeant Rogers has been married twice, his first marriage to Myrtle Tuttle on March 9, 1943, having terminated in divorce on May 30, 1946. The only child of that marriage was placed in the custody the mother. The exact date of his marriage to his present wife is not known, but is believed to have occurred some time in 1949. Mrs. Myrtle Rogers was interviewed and stated that the court had ordered Sergeant Rogers to pay \$10 a week for the support of their child, Sandra Rae, and that Sergeant Rogers had been delinquent in these payments so that it had been necessary to have him arrested on a charge of nonsupport of the child. On September 16, 1946, he was placed on probation for 1 year and was ordered to pay \$10 weekly for the support of the child. She continued that thereafter Sergeant Rogers supported the child until September 30, 1949, but has contributed nothing to its support since that date.

The alien, being of the Japanese race, is ineligible for naturalization under section 303 of the Nationality Act of 1940 and thus is inadmissible to the United States for permanent residence under section 13 (c) of the Immigration Act of 1924. In the absence of special legislation, he may not be permitted to enter the United States for permanent residence. Since Sergeant Rogers has not shown a proper regard for the responsibility of a father to support his own child, it cannot be assumed that he would fulfill his obligation toward his adopted child to any greater degree. Therefore, there is a possibility that the alien child, if admitted to the United States, might become a public charge.

Accordingly, the Department of Justice is unable to recommend enactment of the measure.

Sincerely,

A. DEVITT VANECH,
Deputy Attorney General.

Senator Margaret Chase Smith, the author of the bill, has submitted a number of letters and documents in connection with the bill among which are the following:

GENERAL HEADQUARTERS,
FAR EAST COMMAND,
OFFICE OF THE COMMAND STAFF JUDGE ADVOCATE,
APO 500, April 15, 1952.

Re Sgt. (1C) Ernest P. Rogers RA31034351, Company C, 8080th Army Unit,
Tokyo QM Depot, APO 1051, c/o Postmaster, San Francisco, Calif.

HON. MARGARET CHASE SMITH,
United States Senator, Senate Office Building,
Washington 25, D. C.

DEAR MRS. SMITH: Master Sgt. Ernest P. Rogers has requested this headquarters to forward to you his sworn statement in connection with report furnished you by Mr. A. Devitt Vanech, Deputy Attorney General, United States Department of Justice, in connection with Senate bill 1840 for the relief of the minor half-American child he and his wife have in their custody for the purpose of adoption, at such time as Sergeant Rogers is returned to the zone of the interior.

Attached to the affidavit and in support of the statements contained therein, please find certified copy of second endorsement from Chief of Finance, relative to the allotment in favor of Sandra Mae Rogers, effective June 1, 1947, in the amount of \$40 per month; also photostatic copy of public record of birth of Sandra Mae Rogers showing date of birth as February 18, 1944, and copy of decree of divorce granted in the case of *Myrtle L. Rogers v. Ernest P. Rogers*, dated November 30, 1945.

Sergeant Rogers requests reconsideration of his case by the Department of Justice and has requested me to express to you his appreciation for your efforts in his behalf.

Sincerely yours,

MARY C. EASTERLING,
Attorney-Adviser.

AFFIDAVIT

I, Ernest P. Rogers, RA31034351, master sergeant, Tokyo Quartermaster Depot, APO 1051, c/o Postmaster, San Francisco, Calif., with permanent domicile at Peaks Island, Maine, now temporarily residing in Tokyo, Japan, while serving in the Armed Forces of the United States, being first duly sworn on oath, according to law, depose and say:

That I was born at Newton, N. H., on September 13, 1918;

That I was married to Myrtle Tuttle on the 9th of March 1943 at Haverhill, Mass., and lived with her until the 15th day of March 1943, a total of 7 days, at the end of which time I reported to my organization, the Twenty-eighth Infantry, at Fort Leonard Wood, Mo.:

That I did not return and live with my wife any time during 1943 but was sent from Fort Leonard Wood to maneuvers in the State of Arizona in June and July of 1943; thence to Camp Forrest, Tenn.; thence to Camp Kilmer, N. J., Port of Embarkation where I embarked during the last week in October 1943, arriving in Belfast, Ireland, approximately the 21st day of December 1943; that I remained in Ireland in training until June 1944, at which time I was sent to France, and while with the Advance Group of the Eighth Division, landed on Omaha Beach, France, in June 1944, the 6th, D-day;

That I served in the European theater continuously until about June 1945; that I returned to the United States in the middle of 1945 and immediately went to Haverhill, Mass., in search of my wife, as she had written me during September 1944 that she had a child; that I proceeded to the home of my family in Haverhill, Mass., and was informed by my mother and my sister that shortly after I went to Fort Leonard Wood, Mo., my wife Myrtle Tuttle Rogers had been going with a man by the name of "Al"; that my wife had left the home of my mother and sister with this man "Al" and lived with him in a rooming house on Washington Street, after which she went to Boston, Mass., to live;

That I was also advised that the child born to my wife, Sandra Mae Rogers, was born on February 18, 1944, in the town of Natick, more than 11 months subsequent to the last day on which I lived with my wife; repeating "that I left my wife on March 15, 1943, and went directly to Fort Leonard Wood, Mo.," and that I did not at any time live with her until I returned from the European theater in the middle of the year 1945; that upon my return to the United States I sought my wife and found her living with her mother in Natick, Mass., and feeling that I would like to forgive her for past wrongdoing, I tried to effect a reconciliation; she lived with me for a period of 2 days and then told me that she wanted a divorce and that she did not want to live with me under any circumstances, although I offered her and the child a home and wanted to live with her again;

That I disclaim the paternity of Sandra Mae Rogers the child born to Myrtle Tuttle Rogers prior to my divorce from her and in support of my position state that the last time I lived with my wife or saw her was on March 15, 1943; and that the records of the Commonwealth of Massachusetts in the town of Natick record the birth of Sandra Mae Rogers as February 18, 1944, more than 11 months subsequent to the date I left my wife to come overseas;

That on the 30th day of November 1945 my wife procured a divorce from me in Middlesex County, Mass., and in the court decree I was ordered to pay \$10 per week for the maintenance of Sandra Mae Rogers the child of my wife, beginning on the 1st day of December 1945; that I was discharged from the Army during July 1945 and for a time I was out of employment and could not meet the demands of the court decree of \$10 per week; however when I went to work I did send money pursuant to the terms of the decree to my former wife for the support of the child;

That I reenlisted April 23, 1947, and made an allotment to Sandra Mae Rogers effective the 1st of July 1947 in the amount of \$40 per month; certified copy endorsement from the finance officer, dated December 2, 1950, stating that the records of his office indicate that the above-mentioned class E allotment was authorized by Ernest P. Rogers and payments thereon made by the Army finance

officer for the period June 1, 1947, to June 30, 1950; that the records of the finance officer indicate that for some reason the payments subsequent to September 30, 1949, through April 2, 1951, which had been deducted from my pay were not forwarded for the benefit of Sandra Mae Rogers; I was not told the reason, these payments did not go forward; that is whether it was failure of the finance officer to forward or from lack of proper address;

That during April 1951, I was refunded a total of \$760 which had been withheld over the period stated under the court decree and not forwarded for the benefit of Sandra Mae Rogers.

That during May 1949 I was remarried to Miss Annie L. Stokes from Greenville, Miss., that I was sent overseas October 28, 1949, and my wife joined me in Japan during May 1950; that we have no children, and inasmuch as my wife wanted a child, we procured a half-American child from an orphanage in Japan and this child has been in our custody since June 1951.

That this affidavit is made to set out the facts with reference to my former marriage, divorce, and birth of child to my former wife, Myrtle Tuttle Rogers, and to the above statements made by me under oath, which are supported by records of the AG Office showing the date I reported to Fort Leonard Wood, Mo., in 1943, date of Arizona maneuvers, and date I reported to port of embarkation for overseas shipment. Also proof of my divorce from Myrtle Tuttle Rogers on November 20, 1945, and certified copy of public record of birth of Sandra Mae Rogers, showing that she was born February 18, 1944:

Responsible witnesses corroborating the date my former wife left my home in Haverhill, Mass., with a man identified as only "Al" shortly after I left for Fort Leonard Wood, Mo., are Mrs. William Saicione, 10 Mill Street, Haverhill, Mass., my sister, and Mrs. Alice M. Rogers, my mother, located at the same address;

This affidavit is made in further denial of the allegations and statements made by my former wife to a representative of the Immigration and Naturalization Service set out in letter from Mr. A. Devitt Vanech, Deputy Attorney General, addressed to the Chairman, Committee on the Judiciary, United States Senate, dated January 5, 1952, in connection with my effort to procure private legislation for entry into the United States of my adopted son David Lawrence Rogers, formerly called Tsuneo Tanigawa, which legislation was introduced by Senator Margaret Chase Smith in Senate bill 1840.

In witness whereof, I have hereunto set my hand this 7th day of April 1952, at Tokyo, Japan.

ERNEST P. ROGERS.

With the Armed Forces of the United States at Tokyo Japan, ss:

The foregoing affidavit was subscribed and sworn to before me, an officer authorized under the provisions of article 136 of the Uniform Code of Military Justice to take oaths, this 7th day of April 1952, at Tokyo, Japan.

JOHN F. GOODWIN, Jr.,
JA, GHQ, FEC, APO 500,
Care of PM, San Francisco, Calif.,
Assistant Staff Judge Advocate.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 1840) should be enacted.

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